

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF PUBLIC INTEREST

The Director of the Department of Consumer and Regulatory Affairs pursuant to D.C. Law 2-144, effective March 3, 1979-, "**The Historic Landmark and District Protection Act of 1978**" hereby gives notice that the addresses listed below, as requested permission to demolish, altar, sub-divide or erect new structures at the following location(s):

Application Date	Address	Lot	Square	Use
10/2/03	1324 Massachusetts Avenue, NW	90	1036	Fence
	6919 6 th Street, NW	19 & 811	3191	Add/SFD
	1264 Wisconsin Avenue, NW	836	1218	Façade Rest.
	3138 P Street, NW	76	1256	Rear rack/ patio
10/3/03	1727 Connecticut Avenue, NW	31	91	S/W Café
	717 & 719 H Street, NW	812	428	S/W Café
10/7/03	800 4 th Street, SW	106	540	A/R SFD
	423 12 th Street, SE	62	992	Concept
10/8/03	603 F Street, NE	118	861	Patio/ Parking

**DEPARTMENT OF CONSUMER AND REGULATORY
AFFAIRS****NOTICE OF PUBLIC INTEREST**

Forwarded for your information is a weekly listing of raze permit application filed with the Permit Service Center of the Building and Land Regulation Administration, requesting a permit to raze listed structures with the District of Columbia.

Application Date	Address	Lot	Square	Use
10/6/03	3611 R Street, NW	78	1305	2-Story SFD
	4538 43 rd Street	33	1647	1-Story SFD & Garage
10/7/03	5515 South Dakota Avenue, NE	812	3760	1-Story Gas Station

**BOARD OF ELECTIONS AND ETHICS
CERTIFICATION OF ANC/SMD VACANCIES**

The District of Columbia Board of Elections and Ethics hereby gives notice that there are vacancies in fourteen (14) Advisory Neighborhood Commission offices, certified pursuant to D.C. Official Code §1-309.06(d)(2);2001 Ed.

VACANT: 7D07

Petition Circulation Period: **Monday, September 29, 2003 thru Monday, October 20, 2003**
Petition Challenge Period: **Thursday, October 23, 2003 thru Wednesday, October 29, 2003**

VACANT: 7D02

Petition Circulation Period: **Tuesday, September 30, 2003 thru Monday, October 20, 2003**
Petition Challenge Period: **Thursday, October 23, 2003 thru Wednesday, October 29, 2003**

**VACANT: 3D07, 3D08, 3E05
 5C10, 5C11
 6B11
 8B03, 8C05, 8C06**

Petition Circulation Period: **Wednesday, October 1, 2003 thru Tuesday, October 21, 2003**
Petition Challenge Period: **Friday, October 24, 2003 thru Thursday, October 30, 2003**

**VACANT: 2A06
 4A05
 8E01**

Petition Circulation Period: **Tuesday, October 7, 2003 thru Monday, October 27, 2003**
Petition Challenge Period: **Thursday, October 30, 2003 thru Thursday, November 5, 2003**

Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions at the following location:

**D.C. Board of Elections and Ethics
441 - 4th Street, NW, Room 250N**

For more information, the public may call 727-2525.

OFFICE OF RESEARCH AND ANALYSIS

**NOTICE of GENERAL REAL PROPERTY TAX RATES AND
SPECIAL REAL PROPERTY TAX RATES: TAX YEAR 2004****I. Sum of Real Property Tax Rates**

The recommended Tax Year 2004 real property tax rates are the following:

2004 Proposed Real Property Tax Rates	
<u>Real Property Tax Class</u>	<u>Calculated Indexed Rate Per \$100 of Assessed Value</u>
Class One (owner and renter-occupied residential)	\$0.96
Class Two (commercial)	\$1.85
Class Three (vacant and abandoned)	\$5.00

The recommended real property tax rates for Tax Year 2004 are in strict conformance with the Real Property Tax Revision Act of 2002 which establishes Class 3 Property (vacant and abandoned properties) effective October 1, 2002.

II. Special Real Property Tax Rates**BOND ACT REQUIREMENTS
Certification of Debt Service Requirement**

In Tax Year 2004, forty-five percent of total real property tax collections, by class, shall be dedicated the repayment of General Obligations Bonds. The recommended special real property tax rates by class for Tax Year 2004 are as follows:

2004 Recommended Real Property Special Tax Rates	
<u>Property Class</u>	<u>Real Property Special Tax Rate Per \$100 of Assessed Value</u>
Class One (owner and renter-occupied residential)	\$0.43
Class Two (commercial)	\$0.83
Class Three (vacant and abandoned)	\$2.25

**OFFICE OF TAX AND REVENUE
REAL PROPERTY TAX ADMINISTRATION**

FY 2004 ASSESSMENT RATIO REPORT

Overview

The Office of Tax and Revenue's Real Property Tax Administration (RPTA) appraises real property for purposes of property taxation. As required by statute, the District of Columbia has completed the transition from a triennial assessment system back to an annual assessment cycle. A portion of all properties will be physically reviewed each year. During the review, the assessor will visit properties to verify property characteristics existing in our current assessment records. The characteristics include property type, size, quality of construction, condition of structure and any new improvements. In certain circumstances, neighborhood inspections may be made in place of individual property inspections.

For FY 2002, more than 55,000 properties were valued, and in FY 2003, OTR valued more than 114,000 properties. This year, FY 2004, the entire District, comprised of approximately 172,000 properties was valued. This requires the use of mass appraisal techniques. While a fee appraiser is concerned with valuing one property at a time, an assessor is valuing whole neighborhoods. To accomplish this, special mass appraisal procedures are used. The assessor will review the data and calculate the contributory value of the land and improvements. In addition, individual property type market trends may be developed. The assessor will review the sales from the area. In the District of Columbia, the Recorder of Deeds is a division of the Real Property Tax Administration (RPTA). When real property is transferred, the deed and transfer documents are filed with the Recorder. These documents are imaged and used as a record to change ownership on the assessment roll and capture sales information. The Assessment Division reviews all deeds and property sales prices as the deed transferring the property is recorded. In the assessor's review and analysis of the sales, the assessor will develop land rates, depreciation tables, and sales analysis and/or market trend reports. After completing the analysis, the assessor applies the factors uniformly throughout the neighborhood to value all comparable properties.

RPTA's work is reviewed by OTR's internal auditors, by the District's Auditor and is often scrutinized by individual property owners. We are continually striving for higher quality in assessment uniformity. Our quality control program begins with the individual assessor and the assessor's immediate supervisor. As work is completed, each supervisor reviews the analysis, making recommendations and approving the work. When the assessor completes the revaluation, the supervisor makes a random check using procedural and data editing checks. Following the completion of the revaluation, various computer edits are made to assure good valuation quality.

A measurement of quality is the assessed value/sale price ratio. A ratio is the relationship of two numbers, in this case assessed value and sale price. It measures how closely our values compare to the actual sales prices. The average assessed value/sale price ratio indicates the typical level of assessment. Because the marketplace is not perfect, there will always be properties that sell for more or less than can be anticipated due to factors such as sales between people unfamiliar with the market or buyers willing to pay extra for a unique property, among other reasons.

In mass appraisal and assessment ratio studies, we are not only concerned with the typical level of assessment as indicated by the average assessed value/sale price levels (ratios), but also the degree of spread, or variation, from the typical ratio. The measurement of variation is called the coefficient of dispersion (COD). The lower the COD, the more uniform the assessments.

In the balance of this report, we will give a more detailed explanation of the statistical terms as applied to assessment administration and quality control and explain the International Association of Assessing Officers' (IAAO) Standard of Performance for ratio studies.

RATIO STATISTICS

The purpose of this ratio study is to test the quality of the assessment product of the properties most recently valued. From our most recent valuation, we have performed many ratio studies examining neighborhoods, types of structures, age of structures, etc. We use ratio studies as a performance gauge that includes several measures of central tendency. A measure of central tendency indicates the typical level of assessments to actual selling prices of real estate. These may be the average of assessed value/sale price ratio, the weighted average of assessed value/sale price ratio or the median of assessed value/sale price ratio. The average assessed value/sale price ratio is simply the average of all the ratios in the sample. The weighted assessed value/sale price ratio is the result of dividing the total of the assessments by the total of the sale prices. The median assessed value/sale price ratio is the midpoint ratio of all ratios if the ratios are arrayed from highest to lowest.

In addition to the general level of assessments, we are also concerned with the relative spread or variation that individual ratios fall from the typical ratio. This is measured by the coefficient of dispersion. The coefficient of dispersion is calculated by dividing the average absolute deviation by the median ratio. To calculate the average absolute deviation, subtract the median ratio from the individual ratios and add all the results ignoring positive or negative signs and dividing by the number of ratios. The acceptable level for the coefficient of dispersion depends upon the type of properties being reviewed. Coefficients of dispersion should typically be 20% or less, depending on the types of properties being valued.

Another statistical measure used to gauge assessment uniformity is the Price-Related Differential (PRD). The PRD tests to see if higher and lower valued properties are assessed at the same level. It is calculated by dividing the mean ratio by the weighted mean ratio. Typically, PRDs have an upward bias. PRDs should range between 0.98 and 1.03, except for very small samples. For example, a PRD of 1.03 indicates under valuation of high priced properties, while a PRD of .98 shows an under valuation of low priced properties. Table 2 of this report illustrates a sample computation of these statistics.

Other descriptive statistical methods that may be used to analyze the assessment product are histograms, frequency distributions, scatter diagrams and coefficient of variation. Due to the scope of this report, we have not fully examined these here. For further information on statistics relating to assessments the IAAO's publication, "Improving Real Property Assessment" is recommended.

RATIO STUDY STANDARDS - VALUES TO SALE PRICES

The International Association of Assessing Officers is a professional organization of assessing officials that provides educational programs, assessment administration standards and research on appraisal and tax policy issues. The IAAO has developed numerous standards and texts on appraisal and assessment administration. Additionally, the organization is a founding member of the national Appraisal Foundation that developed the Uniform Standards of Professional Appraisal Practice (USPAP).

The IAAO's Standard on Ratio Studies was first published in September 1990 and was revised in July of 1999. The Standard is advisory in nature. This Standard provides guidance to those performing ratio studies in the mass appraisal field regarding the design, statistics, performance measures and related issues in conducting ratio studies. The District of Columbia Real Property Tax Administration uses the fundamental ratio statistical measures of the Standard, and has adopted IAAO's Assessment Ratio Performance Standard as the criteria to judge the performance of the District's re-valuations. See Table 1 below.

Table 1

Ratio Study Performance Standards

Type of Property	Measure of Central Tendency	Coefficient of Dispersion	Price-Related Differential
Single-Family Residential			
Newer, homogeneous areas	.90 - 1.10	10.0 or less	.98 - 1.03
Older, heterogeneous areas	.90 - 1.10	15.0 or less	.98 - 1.03
Rural residential and seasonal	.90 - 1.10	20.0 or less	.98 - 1.03
Income Producing Properties			
Larger, urban jurisdictions	.90 - 1.10	15.0 or less	.98 - 1.03
Smaller, rural jurisdictions	.90 - 1.10	20.0 or less	.98 - 1.03
Vacant Land	.90 - 1.10	20.0 or less	.98 - 1.03
Other Real and Personal Property	.90 - 1.10	Varies with local conditions	.98 - 1.03

Source: Standard on Ratio Studies; International Association of Assessing Officers; Chicago, Illinois; July 1999; p.34.

Ratio studies may be performed for various reasons including appraisal accuracy and assessment equity studies, to judge the need for and management of a reappraisal, to identify problems with appraisal procedures, to assist in market analysis, and to adjust appraised values. Many ratio study design issues must be considered depending on the purpose of the ratio study.

This study considers unadjusted sales price data during calendar year 2002 before the date of finality of January 1, 2003, for which the FY 2004 assessments are effective. Generally, only sales that are arms-length transactions between a buyer and seller are included in the study. Sales between related parties, with financial institutions or government agencies involved, or sales with extreme ratios, which indicate abnormal transactions, have not been used in this study. An attempt was made to physically inspect all sales. Where property owners were not at home or failed to respond to the "Sales Verification Questionnaire" mailed to them, an exterior inspection was performed. Thus, some of these transactions may have had conditions that could have warranted their exclusion from the study, but were not. Generally, the District's ratio performance is good and conforms to the IAAO Standard.

While several measures of central tendency may be calculated (average, median, and weighted average) the median is less affected by extreme ratios. Therefore, the IAAO observes in its Standard that the median is generally the preferred measure of central tendency for monitoring appraisal performance. For this reason, median ratios are used in this study to measure compliance with IAAO standards.

In circumstances where property values are rapidly changing, ratio statistics will be adversely affected. Where real estate prices have been increasing, ratio statistics will indicate a lower assessed value/sale price ratio. This rapid escalation in property

values has lowered the average ratio. However, one should review the average deviation, coefficient of dispersion, and standard deviation to assure that assessments are uniform.

COMPARISON OF RPTA's VALUES TO SALE PRICES

Quality is the degree of excellence of a product or service. Also, quality is the extent to which a product measures up to certain standards. In this case, a measure of quality is the ratio study measuring whether the assessor appraised properties uniformly and at market value. Approximately one-half of the sales data used in this study was not available for use by the assessor in the group of properties reassessed. Assuming the assessor applied the mass appraisal model uniformly to all properties, this ratio study should show uniformity of assessment. The ratio study is a cross-check by the RPTA management to assure quality of the mass appraisal. It was conducted on 7,179 improved residential property and 528 commercial property sales from January 1, 2002 to December 31, 2002, and compares the administration's valuations on the tax roll for FY 2004.

Table 3 summarizes the Fiscal Year 2004 Real Property Assessment/Sale Ratio by neighborhood within the District of Columbia for residential properties. Table 4 displays similar information for commercial properties. Table 5 illustrates the frequency of assessment sale ratios, in the form of histograms, for residential properties by the three Triennial-Groups of the city. The sales used in this study were calendar year 2002 real estate sales. Table 6 measures RPTA's compliance with nationally recognized assessment performance for FY 2004. Table 7 provides a summary of the sales ratio statistics by property type, grouped by Tri-group and citywide, for the FY 2004 assessment program.

The histograms in Figure 5 graphically represent the frequency distribution of individual ratios in the study and thus allowing comparison between the tri-groups. The general shapes of the graphs also help to illustrate the amount of dispersion existing in the data. A tall, narrow shape usually indicates less dispersion from the measure of central tendency, whereas a more flat and broad shape illustrates more dispersion and less desirable uniformity. The histograms for Tri-Groups 1, 2, and 3 illustrate both good central tendency and reasonable dispersion. The measures of central tendency indicate that properties are valued at approximately 96% of sale price and that on average all other properties have very similar ratios as indicated by the 14% coefficient of dispersion.

The analysis from Table 6 and the following descriptive statistics indicates that values determined by assessors for the most recent valuation attained a uniform and appropriate level of value. It shows that of the fifty-seven residential neighborhoods that were valued for FY2004, fifty-one had a sufficient number of sales to be statistically relevant. Thirty-one of the fifty-one neighborhoods met all applicable IAAO standards for assessment performance, and eight met all but one. In the case of commercial

property, more weight is given to the income approach to valuation, and there are fewer sales allowing more thorough investigation. In the neighborhoods where data was adequate, all but one exceeded the IAAO's standard for median ratios.

Table 2

Illustration of Ratio Study Statistics**Sample Jurisdiction**

(1) Property Number	(2) Sale Price	(3) Assessed Value	(4) Ratio A/S%	(5) Deviation From Average
1	\$280,000	\$224,000	80%	20%
2	\$220,000	\$192,500	88%	12%
3	\$635,000	\$555,750	88%	12%
4	\$559,000	\$517,000	92%	7%
5	\$200,000	\$190,000	95%	5%
6	\$210,000	\$204,750	98%	2%
7	\$800,000	\$800,000	100%	0%
8	\$400,000	\$400,000	100%	0%
9	\$330,000	\$333,000	101%	1%
10	\$450,000	\$461,250	103%	3%
11	\$240,000	\$252,000	105%	5%
12	\$390,000	\$419,250	108%	8%
13	\$370,000	\$416,250	113%	13%
14	\$403,000	\$458,000	114%	14%
15	\$510,000	\$599,250	118%	18%
TOTAL	\$5,997,000	\$6,023,000	1500%	120%

Average Ratio	=	Total of Ratios (4)	÷	Number of Sales (1)	=	100%
		1500%		15		
Weighted Ratio	=	Total of Assessed Values (3)	÷	Total of Sale Prices (2)	=	100%
		\$6,023,000		\$5,997,000		
Average Deviation	=	Total Deviations (5)	÷	Number of Sales (1)	=	8%
		120%		15		
Median Ratio	=	Middle Value of Data Array (i.e. property #8)	=		=	100%
Coefficient of Dispersion	=	Average Deviation (5)	÷	Median Ratio (4)	=	8%
		8%		100%		
Price-Related Differential	=	Average Ratio (4)	÷	Weighted Ratio	=	1.00
		100%		100%		

TABLE 3

Fiscal Year 2004

Residential Real Property Assessment Ratio by Neighborhood

This table shows the real property assessment ratio data for residential properties. The ratios are of arms-length sales of properties. The sales used sold between January 1, 2002 and December 31, 2002, compared with RPTA's values effective January 1, 2003. In neighborhoods with fewer than twenty sales, the statistics may not represent actual market conditions due to the small sample size.

Type of Property: Residential

No.	Neighborhood	No. of Sales	Average Sale Price	Median Sale Price	Mean Ratio	Median Ratio	Weighted Mean	Coefficient of Dispersion	Price-Related Differential
1	AMERICAN UNIVERSITY	116	572,633	545,000	93.1	93	92.3	12	1.01
2	ANACOSTIA	74	113,003	118,250	95.4	97.8	94.5	17	1.04
3	BARRY FARMS	51	94,323	93,000	92.8	93	91.2	10	1.02
4	BERKELEY	44	878,864	910,000	96	96.9	95.8	8	1.01
5	BRENTWOOD	32	109,301	105,300	109.8	114	111.3	19	1.02
6	BRIGHTWOOD	153	223,810	199,000	92.3	95.9	90.9	18	1.05
7	BROOKLAND	210	176,804	168,875	92.6	94.7	91.1	19	1.04
8	BURLEITH	44	684,741	566,250	95.2	94.3	93.4	10	1.01
9	CAPITOL HILL	249	449,097	427,500	97.2	97.2	96.6	12	1.01
10	CENTRAL	224	322,885	250,500	92	93.8	91.5	13	1.03
11	CHEVY CHASE	219	532,097	537,000	98	98.4	98.4	6	1
12	CHILLUM	30	223,858	228,000	90.4	93.4	89.4	19	1.04
13	CLEVELAND PARK	116	456,351	316,000	94.4	93.6	88.8	11	1.05
14	COLONIAL VILLAGE	19	562,174	490,000	98.5	103	101	5	1.02
15	COLUMBIA HEIGHTS	397	223,360	195,000	96.9	96.1	91.9	13	1.05
16	CONGRESS HEIGHTS	156	118,699	120,770	97	99.7	96.7	13	1.03
17	CRESTWOOD	27	549,959	520,000	96.3	99.7	98.5	8	1.01
18	DEANWOOD	202	105,687	107,250	96.8	98.6	94.8	17	1.04
19	ECKINGTON	133	205,870	198,252	92.2	92.8	87.5	22	1.06
20	FOGGY BOTTOM	94	213,687	141,500	91.4	93.1	92	14	1.01
21	FOREST HILLS	104	443,427	260,251	97.8	97.1	96.7	11	1
22	FORT DUPONT PARK	112	128,398	126,500	97	97.1	95.4	10	1.02
23	FOXHALL	22	562,878	562,655	94.2	96.1	94.4	10	1.02
24	GARFIELD	69	407,608	315,000	95	94.9	95.2	9	1
25	GEORGETOWN	267	792,976	655,000	97.2	97.7	96.6	11	1.01
26	GLOVER PARK	99	317,384	236,050	94.2	94.5	94.1	10	1
27	HAWTHORNE	12	525,750	522,000	97.4	99.5	98.8	6	1.01
28	HILLCREST	108	136,207	123,500	94.6	95.5	91.9	12	1.04
29	KALORAMA	225	502,788	321,500	95	95	95.7	11	0.99
30	KENT	48	880,579	845,000	96.1	96.7	94.1	9	1.03
31	LEDROIT PARK	81	270,509	262,000	86.8	91.2	83.2	26	1.1
32	LILY PONDS	36	124,395	124,000	97.7	97.1	93.4	14	1.04

33	MARSHALL HEIGHTS	37	101,812	97,375	94.4	97.4	92.7	18	1.05
34	MASS. AVE. HEIGHTS	11	1,489,591	1,549,000	97.6	102	100.2	7	1.02
35	MICHIGAN PARK	20	234,788	231,335	96.2	95.1	93	14	1.02
36	MOUNT PLEASANT	294	371,891	389,500	93	93.4	92.5	10	1.01
37	N. CLEVELAND PARK	46	571,993	573,500	93.2	93.1	91.6	10	1.02
38	OBSERVATORY CIR.	78	412,939	340,000	96.8	97.3	96.1	10	1.01
39	OLD CITY #1	734	291,324	264,355	93.7	93.5	90.8	18	1.03
40	OLD CITY #2	935	306,974	269,000	95.3	94.5	93.2	14	1.01
41	PALISADES	54	535,613	486,050	90.8	94.3	91.4	16	1.03
42	PETWORTH	219	185,619	179,950	89.5	92.4	87.7	20	1.05
43	RANDLE HEIGHTS	124	110,964	117,950	95	95.1	94.9	10	1
44	R.L.A. (N.E.)	0	0	0	0	0	0	0	0
45	R.L.A. (N.W.)	2	64,500	64,500	92.7	92.7	87.3	24	1.06
46	R.L.A. (S.W.)	106	198,254	160,450	95	96	94.6	17	1.01
47	RIGGS PARK	68	154,332	150,100	93.2	95	93.1	13	1.02
48	SHEPHERD PARK	37	445,735	425,000	97.5	98.4	96.7	6	1.02
49	16TH ST. HEIGHTS	64	333,993	300,000	90	94.4	90.4	21	1.04
50	SPRING VALLEY	47	1,019,041	899,000	98.6	96.7	96.7	5	1
51	TAKOMA PARK	27	216,690	215,000	94.3	97	93.1	16	1.04
52	TRINIDAD	162	119,624	122,500	93.2	95.2	88.6	21	1.07
53	WAKEFIELD	47	351,688	280,000	94.2	92.8	91.8	10	1.01
54	WESLEY HEIGHTS	151	477,746	330,000	92.7	93	90.5	10	1.03
55	WOODLEY	11	878,727	815,000	97.8	97.7	96.7	10	1.01
56	WOODRIDGE	109	164,096	155,000	102.3	103	100.7	9	1.03
66	FORT LINCOLN	23	137,130	150,000	96.9	98.8	100.3	13	0.99

TABLE 4

Fiscal Year 2004

Commercial Real Property Assessment Ratio by Neighborhood

This table shows the real property assessment ratio data for commercial properties. The ratios are of arms-length sales of properties. The sales used sold between January 1, 2002 and December 31, 2002, compared with RPTA's values effective January 1, 2003. In neighborhoods with fewer than twenty sales, the statistics may not represent actual market conditions due to the small sample size.

Type of Property: Commercial

No.	Neighborhood	Number of Sales	Average Sale Price	Median Sale Price	Mean Ratio	Median Ratio	Weighted Mean	Coefficient of Dispersion	Price-Related Differential
2	ANACOSTIA	8	199,125	144,250	114.7	116	106.2	18	1.09
3	BARRY FARMS	3	208,333	210,000	93.9	104	96.8	14	1.08
4	BERKELEY	1	1,625,000	1,625,000	43.2	43.2	43.2	0	1
5	BRENTWOOD	5	298,420	215,000	99.5	88.9	70	17	1.27
6	BRIGHTWOOD	7	749,990	841,000	95.9	88.1	90	10	0.98
7	BROOKLAND	17	794,674	220,000	98.2	91	72.6	9	1.25
9	CAPITOL HILL	15	601,213	515,000	100	96.6	95.3	5	1.01
10	CENTRAL	52	24,770,504	13750000	100	97.4	103	10	0.95
11	CHEVY CHASE	2	1,632,500	1,632,500	76.4	76.4	94	31	0.81
12	CHILLUM	1	175,000	175,000	99.4	99.4	99.4	0	1
15	COLUMBIA HEIGHTS	49	439,712	280,000	99.6	99.2	95.1	11	1.04
16	CONGRESS HEIGHTS	25	399,692	190,000	100	94.4	75.4	6	1.25
18	DEANWOOD	14	458,864	150,000	99.7	98.9	100	18	0.99
19	ECKINGTON	17	253,529	230,000	93.9	92.4	93.2	8	0.99
20	FOGGY BOTTOM	6	3,147,917	399,556	100.6	106	100.3	6	1.05
22	FORT DUPONT PARK	4	164,250	153,500	93.8	94.7	93.8	14	1.01
23	FOXHALL	1	1,200,000	1,200,000	100	100	100	0	1
24	GARFIELD	1	717,500	717,500	132.9	133	132.9	0	1
25	GEORGETOWN	22	3,632,279	775,000	96.9	92.1	97.5	13	0.94
26	GLOVER PARK	2	585,000	585,000	81.2	81.2	75.9	23	1.07
28	HILLCREST	9	414,772	300,000	100	102	100.5	3	1.01
29	KALORAMA	4	1,425,000	1,287,500	100	100	100	0	1
30	KENT	2	1,737,385	1,737,385	100	100	100	0	1
31	LEDROIT PARK	12	939,230	246,000	98.5	98.5	99.3	5	0.99
32	LILY PONDS	1	500,000	500,000	104.8	105	104.8	0	1
33	MARSHALL HEIGHTS	11	161,043	175,000	100	98.3	94.8	9	1.04
36	MOUNT PLEASANT	15	1,229,099	675,000	100	93.7	96.5	18	0.97
38	OBSERVATORY CIR.	2	23,600,000	23600000	100	100	100	0	1
39	OLD CITY #1	74	545,272	249,950	100	99.8	102.7	5	0.97
40	OLD CITY #2	50	769,752	380,000	81.6	84.2	85.9	28	0.98

41	PALISADES	2	809,400	809,400	95.5	95.5	93.8	5	1.02
42	PETWORTH	42	325,004	212,500	96.9	94.8	93.5	8	1.01
43	RANDLE HEIGHTS	10	244,250	207,500	100	104	103.4	4	1
44	R.L.A.(N.E.)	2	4,264,355	4,264,355	93.9	93.9	93.1	1	1.01
45	R.L.A. (N.W.)	1	62,000,000	62000000	98.8	98.8	98.8	0	1
46	R.L.A. (S.W.)	1	7,200,000	7,200,000	97.8	97.8	97.8	0	1
48	SHEPHERD PARK	2	320,000	320,000	100	100	100	0	1
49	16TH ST. HEIGHTS	11	640,693	253,300	100	106	105.4	6	1
51	TAKOMA PARK	1	310,000	310,000	96.8	96.8	96.8	0	1
52	TRINIDAD	12	184,038	118,500	100.3	103	100.1	9	1.03
56	WOODRIDGE	12	576,088	418,000	98.2	92.9	90.8	10	1.02

TABLE 5

HISTOGRAMS OF 2004 RESIDENTIAL SALES RATIOS

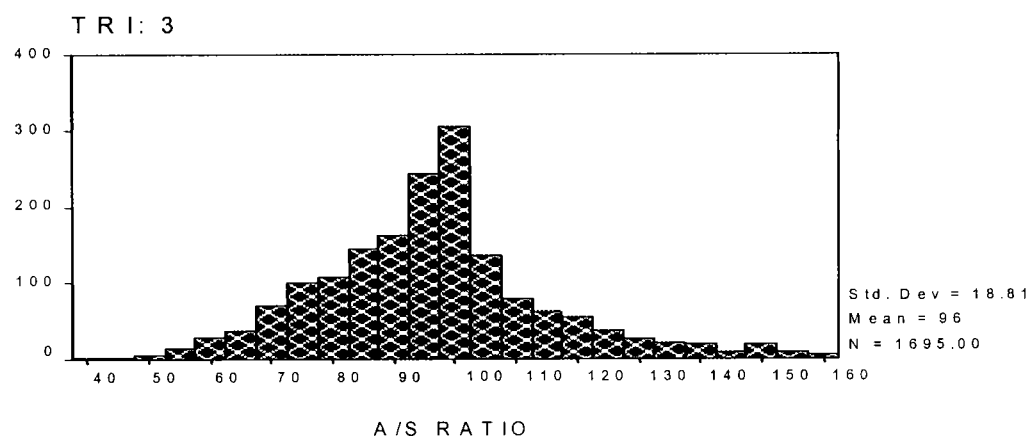
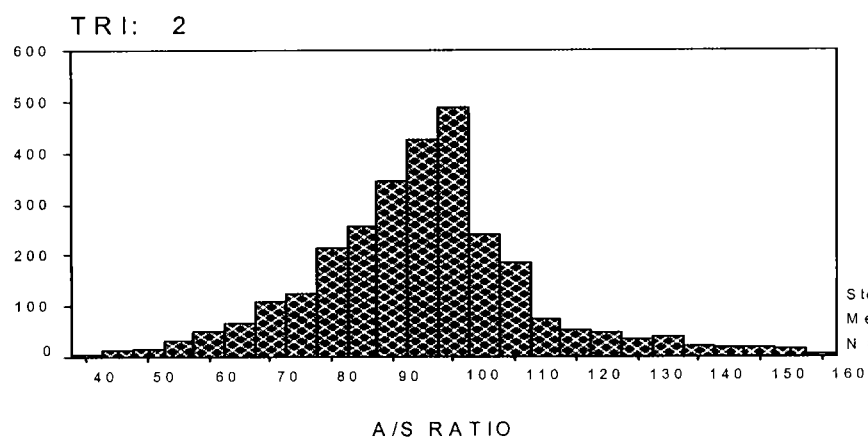
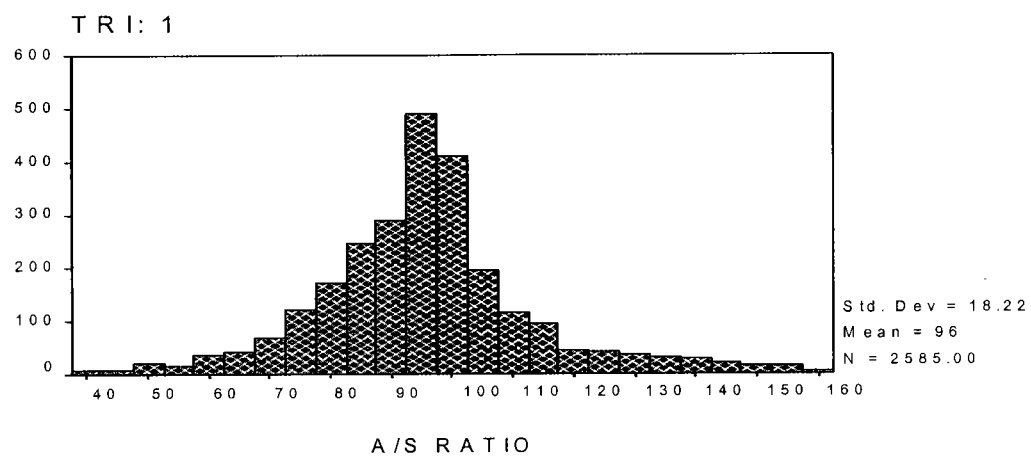


TABLE 6

Compliance with IAAO Ratio Study Performance Standards for FY 2004 Assessments

The International Association of Assessing Officers sets advisory standards for assessment statistics. These standards are discussed in Section III of the text. A "+" indicates compliance with the standard.

2004	Residential Median Ratio	Residential Coefficient of Dispersion	Residential Price-Related Differential	Commercial Median Ratio
AMERICAN UNIVERSITY	+	+	+	Ø
ANACOSTIA	+	x	x	Ø
BARRY FARMS	+	+	+	Ø
BERKELEY	+	+	+	Ø
BRENTWOOD	+	x	+	Ø
BRIGHTWOOD	+	x	x	Ø
BROOKLAND	+	x	x	Ø
BURLEITH	+	+	+	Ø
CAPITOL HILL	+	+	+	Ø
CENTRAL	+	+	+	+
CHEVY CHASE	+	+	+	Ø
CHILLUM	+	x	x	Ø
CLEVELAND PARK	+	+	x	Ø
COLONIAL VILLAGE	Ø	Ø	Ø	Ø
COLUMBIA HEIGHTS	+	+	x	+
CONGRESS HEIGHTS	+	+	+	+
CRESTWOOD	+	+	+	Ø
DEANWOOD	+	x	x	Ø
ECKINGTON	+	x	x	Ø
FOGGY BOTTOM	+	+	+	Ø
FOREST HILLS	+	+	+	Ø
FORT DUPONT PARK	+	+	+	Ø
FOXHALL	+	+	+	Ø
GARFIELD	+	+	+	Ø
GEORGETOWN	+	+	+	+
GLOVER PARK	+	+	+	Ø
HAWTHORNE	Ø	Ø	Ø	Ø
HILLCREST	+	+	x	Ø
KALORAMA	+	+	+	Ø
KENT	+	+	+	Ø
LEDROIT PARK	x	x	x	Ø
LILY PONDS	+	+	x	Ø
MARSHALL HEIGHTS	+	x	x	Ø
MASS. AVE. HEIGHTS	Ø	Ø	Ø	Ø
MICHIGAN PARK	+	+	+	Ø
MOUNT PLEASANT	+	+	+	Ø
N. CLEVELAND PARK	+	+	+	Ø
OBSERVATORY CIR.	+	+	+	Ø
OLD CITY #1	+	x	+	+

OLD CITY #2	+	+	+	x
PALISADES	+	x	+	Ø
PETWORTH	x	x	x	+
RANDLE HEIGHTS	+	+	+	Ø
R.L.A.(N.E.)	Ø	Ø	Ø	Ø
R.L.A. (N.W.)	Ø	Ø	Ø	Ø
R.L.A. (S.W.)	+	x	+	Ø
RIGGS PARK	+	+	+	Ø
SHEPHERD PARK	+	+	+	Ø
16TH STREET HEIGHTS	+	x	x	Ø
SPRING VALLEY	+	+	+	Ø
TAKOMA PARK	+	x	x	Ø
TRINIDAD	+	x	x	Ø
WAKEFIELD	+	+	+	Ø
WESLEY HEIGHTS	+	+	+	Ø
WOODLEY	Ø	Ø	Ø	Ø
WOODRIDGE	+	+	+	Ø
FORT LINCOLN	+	+	+	Ø

+ = Meets IAAO Standard

x = Does not meet IAAO Standard

Ø = Insufficient data

TABLE 7

SUMMARY OF SALES RATIO STATISTICS FY 2004

2004 SALES RATIOS BY PROPERTY TYPE: CITY-WIDE

PROPERTY TYPE	SALES	AVE PRICE	MED PRICE	MEDIAN	MEAN	WEIGHTED	COD	PRD
Residential	7,179	330,267	236,500	95.2	95.4	93.6	14	1.02
Commercial	528	3,319,918	310,000	100.0	96.1	101.1	11	.95

2004 SALES RATIOS BY TRI-GROUP: RESIDENTIAL

TRI-GROUP	SALES	AVE PRICE	MED PRICE	MEDIAN	MEAN	WEIGHTED	COD	PRD
1	2,585	279,050	186,100	95.0	95.6	93.2	14	1.03
2	2,899	403,717	319,000	95.1	94.8	93.8	14	1.01
3	1,695	282,754	201,000	96.1	96.1	94.0	14	1.02

2004 SALES RATIOS BY TRI-GROUP: COMMERCIAL

TRI-GROUP	SALES	AVE PRICE	MED PRICE	MEDIAN	MEAN	WEIGHTED	COD	PRD
1	212	3,262,081	280,000	100.0	98.3	101.8	10	.97
2	179	1,527,770	389,000	100.0	93.8	96.5	12	.97
3	137	5,750,984	325,000	98.7	95.9	102.0	10	.94

DC WIC Committee Meetings

DC WIC Executive Committee Meetings are scheduled for the first Wednesday of every month from 8:30-10:00 a.m.

Employer Involvement/LMI Committee Meetings are scheduled for the third Wednesday of every month from 8:30-10:00 a.m., unless changed by the Chair.

One-Stop Oversight Committee Meetings are scheduled for the second Tuesday of every month from 8:30-10:00 a.m., unless changed by the Chair.

Universal Access Committee meetings are scheduled for the second Monday of every month from 2:00 to 3:30pm, unless changed by the Chair.

Youth Investment Council Meetings are scheduled on a bi-monthly basis for the third Tuesday of the month from 9:00 to 11:00am unless changed by the Chair.

**DC WIC General Meeting Schedule
Fiscal Year 2003-2004**

The DC WIC General Meetings for 2003-2004 are scheduled for the third Friday of every other month from 8:30 a.m. - 10:30 a.m.:

September 19, 2003

Community Preservation & Development Corporation
635 Edgewood Street, N.E., 9th Floor
Washington, D.C. 20017

November 21, 2003

Covenant House Community Service Center
2001 Mississippi Avenue, S.E.
Washington, D.C. 20020

January 16, 2004

The Catholic University of America
The Edward J. Przybala
University Center - Room 322
620 Michigan Avenue, N.E.
Washington, D.C. 20064

March 19th, 2004

Marriott Corporation (Location to be Announced)

May 21, 2004

(Location to be Announced)

****Please contact the DC WIC at 202.698.5826 or amelia.lofton@dc.gov for Meeting Locations of March, and May 2004 as they occur.**

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 16921-A of Celia Berg and Jack Benson pursuant to 11 DCMR § 3104.1 for a special exception to allow a rear addition to a single-family dwelling under section 223, not meeting the lot occupancy (section 403), rear yard (section 404), and nonconforming structure (subsection 2001.3) requirements in the R-2 District at premises 4432 Faraday Place, N.W. (Square 1582, Lot 190).

HEARING DATE: October 8, 2002

DECISION DATE: October 29, 2002

ORDER DATE: March 24, 2003

RECONSIDERATION DECISION DATE: May 6, 2003

ORDER ON RECONSIDERATION

Preliminary matters. By order dated March 24, 2003, the Board granted a special exception under section 223 requested by the owners of the property that is the subject of the application, Celia Berg-Benson and Jack Benson (collectively, "Applicant"), to allow construction of a one-story addition to the rear of their single-family detached house at 4432 Faraday Place, N.W. (Square 1582, Lot 190). In addition to the Applicant, the parties in this proceeding are Advisory Neighborhood Commission ("ANC") 3E and Kathleen Beckwith, the owner of property abutting the subject property, who opposed the application.

Motion for reconsideration and stay. Kathleen Beckwith submitted a timely motion for reconsideration and request for a stay of the Board's order. *See* 11 DCMR § 3126. The motion requested the Board, upon reconsideration of its order granting the special exception, to vacate and stay the order and deny the application. Grounds for the motion included contentions that the Board's decision was not based on substantial evidence in the record or supported by the findings of fact and conclusions of law that permit the granting of a special exception under section 223. The motion alleges several instances of error by the Office of Planning ("OP") in its report and by the Board in its deliberations, including that the order was inconsistent with the public record. No party filed an answer in opposition or in support of the motion.

Reconsideration. With respect to the request for reconsideration, the motion states generally that the Board's order "was not compliant with nor lawfully issued pursuant to the authority granted under the restrictive provisions of Section 223.2. . . ." Specifically, the motion asserts that the "Applicant's request as approved is strongly opposed because . . . it has a substantially adverse effect upon the use and enjoyment of the opposing party's abutting home by negatively obstructing light, views from such property, and the use and enjoyment of the property." Motion at ¶ 3. The motion complains that the Board "placed undue weight upon the testimony of the Office of Planning" and "erred by overly relying on an [Office of Planning] report which contains errors and omissions and fails to thoroughly address issues under Section 223," so that the "decision wrongly shifts the burden of proof upon the adverse party in opposition rather than

BZA Application No. 16921-A Order on Reconsideration
Page 2

the Applicant. . . .” Finally, the motion also contends that the Board’s order is inconsistent with the public record and with comments by Board members during the hearing and the decision meeting in this case.

The Board finds that the motion does not state any grounds that warrant reconsideration of the March 24, 2003 order granting the Applicant’s requested special exception. *See* 11 DCMR § 3126.4. The motion does not state specific respects in which the Board’s final decision was erroneous, but merely restates the party in opposition’s grounds for opposing the application. The party in opposition participated fully in the public hearing in this matter, and the Board carefully considered her testimony and evidence as part of the record on which its decision was based.

The Board does not concur with the party in opposition that any of its findings of fact, as set forth in the March 24, 2003 order approving the application, was in error. Rather, the motion misconstrues the planned one-story addition as two stories, and incorrectly characterizes comments or questions by individual Board members, made during the hearing or during the Board’s deliberations at the public meeting, as part of the decision of the Board in approving the application. The Board voted to approve the requested special exception without conditions. Its findings of fact and conclusions of law were based on substantial evidence in the record. The party in opposition, while remaining opposed to the requested special exception, attempts to reassert the same arguments made at the hearing and has not presented grounds requiring reconsideration of the Board’s decision.

The Board is required by statute to give “great weight to the recommendation of the Office of Planning.” D.C. Official Code § 6-623.04 (2001). *See also Neighbors Against Foxhall Gridlock v. D.C. Board of Zoning Adjustment*, 792 A.2d 246, 253 (D.C. 2002). In this case, the Office of Planning recommended approval of the requested special exception because the proposed one-story rear addition would comply with the requirements for special exception relief, would be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps, and would not tend to affect the use of neighboring property adversely. The Board credited the testimony of the Office of Planning in concluding that the Applicant’s proposed addition was consistent with the requirements for special exception approval, but also fully considered all testimony and evidence in the record – including the testimony and evidence presented by the party in opposition – in deciding to grant the application. The errors in the OP report noted in the motion – concerning the building material of the structure, whether neighboring property owners supported the application, and whether the application would be considered by the ANC – were not crucial to the Board’s decision.

Stay. With respect to the request for a stay, the Board notes that the motion does not state any grounds for a stay. To prevail on a motion for stay, the party seeking the stay must demonstrate that it is likely to prevail on the merits, that irreparable injury will result if the stay is denied, that the opposing parties will not be harmed by a stay, and that the public interest favors the granting of a stay. *See Kufлом v. District of Columbia Bureau of Motor Vehicle Services*, 543 A.2d 340, 344 (D.C. 1988) (administrative agency required to consider the four specified factors in considering a motion for stay). For the reasons discussed above, the Board concludes that the

BZA Application No. 16921-A Order on Reconsideration**Page 3**

moving party is not likely to prevail on the merits of the request for reconsideration. Nor has the movant demonstrated irreparable injury resulting from the denial of a stay or the public interest favoring the grant of a stay. The Applicant, however, would be harmed by a stay preventing or delaying construction of a planned addition that is consistent with the requirements for special exception approval pursuant to section 223 of the Zoning Regulations.

Accordingly, it is therefore **ORDERED** that the motion for reconsideration and stay is **DENIED**.

VOTE: 4-0-1 (Geoffrey H. Griffis, Curtis L. Etherly, Jr., Carol J. Mitten,
and David A. Zaidain to deny; a mayoral appointee not
present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
Each concurring Board member approved the issuance of this order.

FINAL DATE OF ORDER: OCT - 6 2003

PURSUANT TO 11 DCMR § 3125.6, THIS ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL. MN/rsn

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 16987 of Pablo Martinez, pursuant to 11 DCMR § 3104.1 for a special exception under § 223 to allow an existing rear deck addition to a two-family dwelling that does not comply with the lot occupancy requirements (§ 403), the rear yard requirements (§ 404), and the court area requirements (§ 406) in an R- 4 zone, at the premises located at 1207 Clifton Street, N.W. (Square 2865, Lot 41).

HEARING DATE: March 11, 2003

DECISION DATES: April 15, 2003, May 6, 2003, June 3, 2003

DECISION AND ORDER

Preliminary Matters

Pablo Martinez, the property owner (the owner or the applicant) of the subject premises, filed an application with the Board of Zoning Adjustment (BZA) on January 3, 2003 for a special exception under § 223 to allow an existing rear deck addition to his dwelling where the dwelling does not conform to the lot occupancy requirements of § 403, the minimum rear yard requirements of § 404, or the court area requirements of § 406 of the Zoning Regulations.

Notice of Public Hearing The BZA scheduled a public hearing for March 11, 2003. Pursuant to 11 DCMR 3113.3, notice of the hearing was sent to the applicant, owners of all property within 200 feet of the subject premises, the Advisory Neighborhood Commission (ANC) 1B, and the District of Columbia Office of Planning (OP). The applicant posted placards at the property regarding the application and public hearing and submitted an affidavit to the BZA to this effect (Exhibit 29).

OP Report OP reviewed the special exception application and prepared a written report supporting the special exception (Exhibit 28). Among other things, OP concluded that the dwelling and addition occupied 63.24% of the lot.

ANC Report In its report dated February 7, 2003, ANC 1B indicated that at a regularly scheduled monthly meeting with a quorum present, the ANC also voted to support the special exception (Exhibit 25).

Parties in Opposition The BZA granted unopposed requests for party status to two adjacent property owners, Robert Stofferson and Larry Ewers. Mr. Stofferson and Mr. Ewers reside, respectively, at 1209 and 1205 Clifton Street. The BZA found under 11 DCMR § 3106.3 that Mr. Stofferson and Mr. Ewers both qualified for party status because their interests would be more significantly affected by the proposed special exception than those of persons in the general population. Both Mr. Stofferson and Mr. Ewers maintained throughout the proceedings that the deck was too large and too tall, and that it disturbed their privacy and blocked their sunlight. They also maintained that the ANC report in support should not be given "great weight" because

BZA APPLICATION NO. 16987
PAGE NO. 2

the ANC failed to give proper notice prior to its meeting when the matter was discussed and decided.

Submissions to the BZA and Procedural History The owner submitted photographs and drawings of the deck and dwelling with his application, but none of the drawings were certified by an architect. At the public hearing on March 11, 2003, the BZA requested additional submissions from the applicant prior to its April 15, 2003 decision meeting, specifically: graphic documentation of the rear of the property and nearby dwellings, and written closing remarks. The applicant made additional submissions that contained, among other things, revisions to his original lot occupancy calculations. Specifically, the applicant revised the 63.24% lot occupancy figure to between 65% and 68.7%. At its decision meeting on April 15, 2003, the BZA expressed concern that the applicant's submissions and calculations of lot occupancy were inaccurate, and directed the applicant to provide a certified surveyor's plat with dimensions of the property and structure. The applicant was to submit the survey plat within two weeks. At a later decision meeting on May 6, 2003, the applicant requested additional time to submit the survey plat. The BZA granted the applicant's request for additional time and reset its decision meeting for June 3, 2003. The applicant submitted a certified survey plat of the property prepared by "West Group" prior to the BZA's June 3 decision meeting.

FINDINGS OF FACT

1. The property is located at 1207 Clifton Street, NW, and is currently developed as a dwelling with a front porch and a rear deck addition. It is located on Lot 41, at Square 2865.
2. Based upon the certified survey plat prepared by West Group, the BZA finds that the dwelling (including the addition) occupies more than 73% of Lot 41. Although OP reported that the lot occupancy was only 63.24%, the applicant conceded that OP's findings were based upon the applicant's initial uncertified drawings. These drawings failed to take into account the front porch and were, therefore, incomplete and inaccurate. As a result, OP's findings with respect to lot occupancy cannot be credited.

CONCLUSIONS OF LAW

The BZA is authorized under § 8 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799, as amended; D.C. Code § 6-641.07(g)(2) (2001)), to grant special exceptions as provided in the Zoning Regulations. The applicant is seeking a special exception pursuant to 11 DCMR § § 223 and 3104.1 to allow an existing rear deck addition to a two-family dwelling in an R-4 District, where the addition will not comply with the lot occupancy requirements, rear yard requirements, or court area requirements in the Zoning Regulations.

Section 223 of the Regulations governs "additions to one-family dwellings or flats". Section 223.1 allows additions as a special exception, "subject to the provisions of [section 223]". In other words, special exceptions granted under § 223 must satisfy each of the subsections in that section, *i.e.*, provisions contained in § § 223.2, 223.3, 223.4, and 223.5.

BZA APPLICATION NO. 16987
PAGE NO. 3

Section 223.3 states that “[t]he lot occupancy of the dwelling or flat, together with the addition, shall not exceed fifty percent (50%) in the R-1 and R-2 Districts or seventy percent (70%) in the R-3, R-4, and R-5 Districts”, (emphasis added). Because the dwelling with the addition covers 73% of the lot (see Findings of Fact, paragraph 2), and is located in the R-4 District, it does not satisfy the requirements of § 223.3. Since the lot occupancy exceeds 70%, the dwelling with rear deck addition cannot, on its face, qualify for a special exception under § 223. As such, there is no need for the BZA to decide whether the remaining criteria under § 223 are satisfied.

The BZA is required under Section 13 of the Advisory Neighborhood Commission Act of 1975, effective October 10, 1975 (D.C. Law 1-21, D.C. Official Code §1-309.10(d)(3)(A)), to give “great weight” to the issues and concerns raised in the affected ANC’s recommendations. To give great weight the BZA must articulate with particularity and precision the reasons why the ANC does or does not offer persuasive advice under the circumstances and make specific findings and conclusions with respect to each of the ANC’s issues and concerns. The BZA cannot give great weight to the ANC issues and concerns¹, since they did not relate to the lot occupancy question, upon which this case is being decided. *See Concerned Citizens of Brentwood v. BZA*, 634 A.2d 1234, 1241 (1993) (The “great weight” requirement extends only to ‘issues and concerns that are legally relevant.’ *Bakers Local 118, supra*, 437 A.2d at 179 (citation omitted))” (internal quotation marks omitted).

The BZA is also required under D.C. Official Code § 6-623.04 to give “great weight” to OP recommendations. OP determined that the lot occupancy was below the 70% maximum permitted. However, the applicant concedes that the OP finding in this case regarding lot occupancy was based on inaccurate data. Its conclusions were based upon depictions of the property that did not account for the front porch. While OP is not responsible for reaching its erroneous conclusion – the applicant is responsible – the OP recommendations cannot be given “great weight” under the circumstances.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law. It is therefore **ORDERED** that this application be **DENIED**.

VOTE: **4-0-1** (Carol J. Mitten, David A. Zaidain, Geoffrey H. Griffis, and Curtis L. Etherly, Jr., in favor of the motion, none opposed, and Ruthanne G. Miller not participating in the proceedings)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member has approved the issuance of this Decision and Order.

FINAL DATE OF ORDER: OCT - 6 2003

¹ Since the ANC issues and concerns did not turn out to be legally relevant, there is no need to address the arguments raised by Mr. Stofferson and Mr. Ewers regarding the ANC’s failure to give proper notice of its meeting.

BZA APPLICATION NO. 16987
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PURSUANT TO 11 DCMR § 3125.6, THIS DECISION AND ORDER WILL BECOME FINAL UPON ITS FILING IN THE RECORD AND SERVICE UPON THE PARTIES. UNDER 11 DCMR § 3125.9, THIS ORDER WILL BECOME EFFECTIVE TEN DAYS AFTER IT BECOMES FINAL. SAG/rsn

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 16989 of William T. and Norma G. Byrd, pursuant to 11 DCMR § 3103.2, for a variance from the use provisions to allow office use within a two-story row dwelling under § 330.5, in an R-4 district at premise 714 10th Street, N.E. (Square 912, Lot 72).

HEARING DATES: March 18, 2003, April 8, 2003
DECISION DATE: May 6, 2003

DECISION AND ORDER

The applicants in this case are Mr. William T. and Mrs. Norma G. Byrd, (the "Applicants") husband and wife, the owners of the property that is the subject of this application ("subject property"). The Applicants purchased the property on October 15, 2002, intending to use it as an office for their management consulting business, but they did not intend to reside at the subject property.

The Applicants applied to the District of Columbia Department of Consumer and Regulatory Affairs ("DCRA") for a certificate of occupancy, but their application was denied. The Zoning Administrator ("ZA"), an employee of DCRA, wrote to the Applicants and informed them that because the subject property is located in an R-5-D zone district, their proposed office use is not a matter-of-right use. He explained that the Applicants needed variance relief from the Board of Zoning Adjustment ("Board"). On January 7, 2003, they filed the appropriate application with the Board requesting use variance relief.

On March 18, 2003, the Board held a public hearing on the application, during which there was lingering uncertainty as to the correct zoning on the subject property. Therefore, the Board continued the hearing until April 8, 2003, and requested that, before that date, the Applicants have the District of Columbia Office of Zoning ("OZ") officially certify the zoning. The zoning was properly certified as R-4 and the hearing continued and concluded on April 8th. On May 6, 2003, the Board held a public decision meeting and voted, 4-0-1, to deny the application.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. By memoranda dated January 14, 2003, the Office of Zoning notified the Council Member for Ward 6, Advisory Neighborhood Commission ("ANC") 6A, the ANC member for Single Member District 6A02, the District of Columbia Office of Planning ("OP") and the District of Columbia Department of Transportation of the filing of the application. Pursuant to § 3113.13 of Title 11 of the

District of Columbia Municipal Regulations ("DCMR"), OZ published notice of the hearing on the application in the District of Columbia Register and on January 23, 2003, OZ mailed notices to the Applicants, ANC 6A and all owners of property within 200 feet of the subject property, advising them of the hearing date. Further, the Applicants' affidavits of posting indicate that on March 3, 2003, they had posted a zoning poster on the front door security gate of the subject property and that on March 5, 2003, this poster, after having been torn down, was replaced, and a second poster put up in the yard. Both posters were in plain view of the public.

Requests for Party Status. There were two requests for party status in this case, one from Ms. Marie-Claire Brown and one from Mr. Carlos Reeder, both residents of the neighborhood wherein the subject property is located. Mr. Reeder's request was received only one day before the hearing date and he did not appear to testify at the hearing. The Board did not grant his request, but did grant party status to Ms. Brown, who appeared at, and participated in, the hearing.

Applicants' Case. The Applicants both testified on behalf of the application. They explained that they did not intend to live at the subject property, but that they had spent a good deal of time and money searching for the best property in which to re-locate and expand their home-based business. They testified that they had been told by both their realtor and DCRA that the subject property was zoned C-2-B, and was therefore a suitable location for their office use. They testified that the previous owner had been running a home occupation from the subject property, but that he also lived on the property. They stated that they had made a \$60,000 down payment on the property and had made some minor improvements in order to prepare it for office use. They had not yet, however, moved into the property and the property was vacant at the time of the hearings on the application. The Applicants made both traditional variance arguments and an equitable estoppel argument, claiming that the District was estopped to deny them the use variance.

Government Reports. On March 4, 2003, the Office of Planning submitted a report recommending denial of the requested use variance. OP opined that the Applicants could not make the use variance tests, *i.e.*, that there was nothing unique about the property and there was no undue hardship caused by the application of the zoning regulations. The property was appraised as a residential unit and retains this value as a residential property. It can therefore be put to any conforming use with a fair and reasonable return. OP also stated that the requested commercial use would impair the intent of the zoning regulations and the integrity of the Comprehensive Plan for the National Capital ("Comprehensive Plan").

ANC Report. By letter dated March 13, 2003, ANC 6A indicated that it voted 6-0-1, at a regularly scheduled meeting with a quorum present, to oppose the application. No ANC representative testified at the hearing on the application.

Parties and Persons in Support. There were no parties or persons in support of the application.

Parties and Persons in Opposition. Ms. Marie-Claire Brown appeared as a party in opposition. Dr. Michael Fain testified as a person in opposition to the application. There were also several letters in opposition received into the record. Generally, the opposition was concerned about the potential negative impacts of a commercial use on the residential character of the neighborhood.

Hearing. The public hearing on the application was held on March 18, 2003 and continued until April 8, 2003, on which date it was completed.

Decision Meeting. At the public decision meeting on May 6, 2003, the Board voted 4-0-1 to deny the application.

FINDINGS OF FACT

1. The subject property is located in Ward 6, at premise 714 10th Street, N.E. and is improved with a two-story row dwelling.
2. The subject row dwelling is one in a continuous line of 11 row dwellings, collectively know as "Lincoln Mews East" and does not differ from these other row dwellings in any significant way.
3. The subject row dwelling could be used as a residence or sold as a residence.
4. The subject property is in an R-4 zone district, as certified by the Office of Zoning on March 24, 2003. The R-4 district allows dwellings, including row dwellings, and conversions of pre-1958 buildings into apartment houses, and some institutional uses, but no office uses. *See*, 11 DCMR § 330.
5. All the other row dwellings in the continuous line of dwellings of which the subject property is part are used as residences. The line of dwellings fronts on 10th Street, N.E., running north and south between G and H Streets, N.E.
6. To the east across 10th St., N.E. and to the south across G St., N.E., the R-4 zone continues. Just behind the subject property to the west is an R-5-D zone and to the north of the subject line of row dwellings is a C-2-B zone. This C-2-B zone runs along H St., N.E. and is referred to as the "H Street Commercial Corridor."
7. The subject property is designated as Moderate Density Residential on the Comprehensive Plan.
8. On October 15, 2002, the Applicants purchased the subject property, intending to use it as office space for their currently-home-based management consulting business. The business employs 7 people, including the Applicants.
9. The parking, loading and trip generation of the proposed use would be greater than those attributable to a single-family use and are therefore incompatible with the neighborhood.

10. During the purchase process, the Applicants' realtor and appraiser both erroneously informed them that the subject property was zoned C-2-B.
11. The information the Applicants received from their realtor stated, in fine print, "[i]nformation is believed to be accurate, but should not be relied upon without verification."
12. At some point before final closure on the subject property, the Applicants received a "Property Information" print out of a database record from DCRA, which stated that the subject property was zoned C-2-B. The Applicants did not, however, receive a certification of the zoning of the property from the Office of Zoning, the only office with the authority to officially certify zoning. *See*, 11 DCMR § 106.3.
13. The Applicants had an appraisal of the dwelling done, the cost of which was based on the condition that the property would have a commercial use. The appraisal, however, was performed as a residential appraisal and memorialized in a report entitled "Uniform Residential Appraisal Report." All the "comparables" used in the appraisal report were residential properties.
14. The seller of the subject row dwelling lived in it and operated a home occupation in it, pursuant to 11 DCMR § 203.
15. The Applicants did not intend to live at the subject property and have not yet moved into the dwelling.
16. The Applicants have not altered the subject property in any way which would preclude its use for a use permitted in the R-4 zone district. They verified that there was sufficient voltage to operate multiple computers, and upgraded the telephone lines, but made no other changes to the interior or the exterior of the property.
17. The purchase price for the subject property was \$299,000. The Applicants put down a \$60,000 deposit and took out a mortgage for the balance. They also expended something less than \$1,000 on the subject property, upgrading the phone lines, to prepare it for office use.
18. After they purchased the subject property, the Applicants applied at DCRA for a certificate of occupancy. The Applicants were informed by the ZA, in his letter of November 26, 2002, that their application was denied because the property was zoned residential and that, therefore, they would need variance relief to permit their requested office use.

CONCLUSIONS OF LAW

This case involves a request for a use variance. The Board is authorized to grant a variance from the strict application of the zoning regulations in order to relieve difficulties or hardship where "by reason of exceptional narrowness, shallowness, or shape of a specific piece of property ... or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition" of the property, the strict application of any zoning regulation "would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the

property...." D.C. Official Code § 6-641.07(g)(3) (2001), 11 DCMR § 3103.2. Relief can be granted only "without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map." *Id.* An applicant for a use variance must make the greater showing of "undue hardship," as opposed to the lesser showing of "practical difficulties," which applies in area variance cases. *Palmer v. Board of Zoning Adjustment*, 287 A.2d 535, 541 (D.C. 1972). The Applicants in this case, therefore, had to make three showings: uniqueness of the property, that such uniqueness results in "undue hardship" to the Applicants, and that the granting of the variance would not impair the public good or the intent and integrity of the zone plan and regulations.

In determining uniqueness and undue hardship the Board is directed to look at the property, including the physical land and the structures thereon, but it can also consider "subsequent events extraneous to the land." *De Azcarate v. Board of Zoning Adjustment*, 388 A.2d 1233, 1237 (D.C. 1978); *Capitol Hill Restoration Society v. Board of Zoning Adjustment*, 534 A.2d 939, 942 (D.C. 1987). The Court of Appeals has opined that the Board must be able to consider such events in order "to weigh more fully the equities in an individual case." *National Black Development Institute v. Board of Zoning Adjustment*, 483 A.2d 687, 690 (D.C. 1984). See also, *Downtown Cluster of Congregations v. Board of Zoning Adjustment*, 675 A.2d 484 (D.C. 1996) (market conditions); *French v. Board of Zoning Adjustment*, 658 A.2d 1023 (D.C. 1995) (previous chancery use); *Tyler v. Board of Zoning Adjustment*, 606 A.2d 1362 (D.C. 1992) (economic factors); *Gilmartin v. Board of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990) (easement); *United Unions v. Board of Zoning Adjustment*, 554 A.2d 313, 317-318 (D.C. 1989) (historic preservation requirements); *National Black Child Development Institute v. Board of Zoning Adjustment*, 483 A.2d 687 (D.C. 1984) (changes in zoning regulations); *Capitol Hill Restoration Society v. Zoning Commission*, 380 A.2d 174 (D.C. 1977) (private restrictive covenant); *Clerics of St. Viator v. Board of Zoning Adjustment*, 320 A.2d 291 (D.C. 1974) (societal changes).

The category of "events extraneous to the land" has been broadly interpreted by the Court of Appeals. Under this category fall events which have no immediate relationship to the property, such as the "extraordinary drop in enrollment of seminarians" found to be the uniqueness leading to undue hardship in *Clerics of St. Viator, supra*. Also under the category of "events extraneous to the land" fall events which have a more direct connection to the property in question and arise out of the "zoning history" of the property. The Court of Appeals has held that this zoning history "can be taken into account in the uniqueness facet of the variance test" because "those past actions [of government officials] are the critical factors" which have helped to cause the "present predicament." *Monaco v. Board of Zoning Adjustment*, 407 A.2d 1091, 1097 and 1098 (D.C. 1979). See also, *Beins v. Board of Zoning Adjustment*, 572 A.2d 122, 129 (D.C. 1990). In the instant case, the Applicants claim that their "present predicament" was caused partially by DCRA, who allegedly told them that the subject property was zoned

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C-2-B. The Applicants further claim that, reliance on this information resulted in undue hardship in that they expended money on a down payment and some minor improvements of the property.

The Applicants also put forth an estoppel argument based on DCRA's action, but the Board finds that it is not necessary to reach estoppel.¹ Instead, there is a middle ground, which does not rise to the level of estoppel, carved out by the Court of Appeals and into which DCRA's action falls. Under the Court of Appeals' reasoning above, DCRA's action, which arises out of the "zoning history" of the property, is an "event extraneous to the land," which could form the basis of a finding of extraordinary or exceptional situation or condition resulting in undue hardship. Therefore, it will be fully explored. First, however, we will briefly examine the concept of "events extraneous to the land" and how the Court of Appeals interprets zoning history in a variance analysis.

"Events extraneous to the land," and specifically, zoning history, have been held to constitute uniqueness in both area and use variance cases. In *De Azcarate v. Board of Zoning Adjustment*, 388 A.2d 1233 (D.C. 1978), an area variance case, one large lot in an R-1-A zone district was subdivided into three smaller lots, one of which was numbered 17. The subdivision was properly recorded. Subsequently, Lot 17 was enlarged to include an additional strip of land, and this subdivision was also recorded. The owner of Lot 17 applied for, and received, a building permit to construct a single-family dwelling on Lot 17. The landowner never constructed the dwelling, but sold Lot 17 to another individual on the condition that the property was suitable for construction of a single-family residence. When this second landowner applied for a building permit, he was denied on the ground that Lot 17 failed to conform to the lot width requirements of an R-1-A zone. The new landowner was then granted an area variance by the Board, which was challenged in court primarily on the ground that the above scenario did not amount to an "extraordinary or exceptional situation or condition" for variance purposes.

The Court disagreed with this assertion, citing the fact that both subdivisions and building permits are subject to review and must be in accordance with the zoning regulations. *Id.* at 1235. The Court therefore reasoned that the zoning authorities had three times implicitly determined that the lot width of Lot 17 was in accordance with the zoning regulations -- at the time of the first subdivision, the second subdivision and the granting of the building permit. *Id.* at 1238. The Court declined to precisely define the term

¹The Board heard the Applicants' estoppel argument during the proceedings herein. It is not clear, however, that estoppel is applicable here because, first, the action of the District government that the Applicants claim to rely upon was an action by a DCRA staff person, and, second, the action that Applicants complain of is the ZA's refusal to issue them a certificate of occupancy for the subject property. DCRA, however, was not a party to the proceeding before the Board and therefore, did not have a chance to defend against Applicants' claim of estoppel. Estoppel would have been appropriate in a timely appeal of the refusal of DCRA to give the Applicants their requested certificate of occupancy.

"extraordinary or exceptional situation or condition," but held that the above scenario, without more, fell within the ambit of the term.

In *Monaco v. Board of Zoning Adjustment*, 407 A.2d 1091 (D.C. 1979), use and area variances were upheld based almost entirely on events extraneous to the land, including, most importantly, "past actions of the zoning authorities." *Id.* at 1097. In *Monaco*, it was agreed among the landowner, the Zoning Commission and the Architect of the Capitol that the landowner, instead of requesting a zone change, would proceed by means of a series of variance requests. The landowner proceeded with its building plans in three parts and obtained variances for all three. After the first two parts were constructed, funds ran dry and the last part of the plan was postponed. The variance lapsed. Subsequently, the landowner applied to the Board for new variances for the third part of the building plan. These variances were granted, but appealed to the Court of Appeals on the ground that none of the facts before the Board, including the past zoning history, were a sufficient basis on which to grant a variance.

The Court disagreed and upheld the variances, clearly stating that the

[landowners'] hardship stems from ... their reliance on actions of the zoning authorities. Thus, we conclude that good faith, detrimental reliance on the zoning authorities' informal assurances may be taken into account in assessing [landowners'] undue hardship under variance law.

Id. at 1101. Thus, in *Monaco*, the past actions of the zoning authorities constituted an extraordinary or exceptional situation or condition out of which arose the landowner's undue hardship.

Extraordinary or Exceptional Situation or Condition -- Uniqueness

In the instant case, the Applicants claim that certain events extraneous to the land constitute the uniqueness of the subject property. They base their uniqueness argument on the facts that they were told by DCRA, their realtor, and their appraiser that the subject property was zoned C-2-B, and that, relying on this information, they assumed a mortgage and expended money on a down payment and some minor improvements of the property. There is nothing else about the subject row dwelling or the property on which it sits that makes it unique compared to the rest of the row dwellings in the line. The property is one in a line of 11 almost identical row dwellings.

DCRA apparently gave the Applicants a "Property Information" print out of a database record showing the zoning of the subject property as C-2-B. The Applicants were also told by both their realtor and their appraiser that the zoning was C-2-B. As far as the record shows, the realtor and appraiser relied on information found in the "Metropolitan

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Regional Information Systems, Inc." ("MIRS"). The Applicants argue that, because these sources retrieved information which, at some point, must have been provided by the District, this should be considered an act of the zoning authorities for purposes of uniqueness.

The Board agrees that the actions of DCRA, the realtor and the appraiser were "events extraneous to the land" which can be considered in determining whether there is uniqueness here.

The Board, however, finds that such "events" do not constitute the uniqueness necessary in the granting of a use variance. DCRA is not the proper agency to certify zoning. The Office of Zoning is the correct agency to perform this task. *See*, Finding of Fact No. 12. As far as the actions of the realtor and the appraiser, they appear merely to have been misinformed, and perhaps they should have verified the information they received. *See*, Finding of Fact No. 10. Further, assuming the Applicants properly relied on the erroneous information they received, the justifiability of such reliance is undermined by the facts that the row dwelling is located in the middle of a line of residences and the appraisal was done as a residential appraisal. *See*, Finding of Fact No. 13. In any event, even if these "events extraneous to the land" constitute an extraordinary or exceptional situation or condition, the Applicants have failed to meet the last two variance tests -- undue hardship and no impairment of the neighborhood and the zone plan.

Undue Hardship

The Applicants have failed to show any undue hardship. The Board concludes that the Applicants are not harmed by the strict application of the residential zoning for the subject property. This is not said cavalierly. The Board is well aware of the time and expense that the Applicants put into finding and purchasing the property. The Applicants, however, can sell the subject property if they choose not to keep it, presumably at a price comparable to the price they paid for it, thereby avoiding a loss of their \$60,000 deposit and the money spent on telephone line upgrades. Or, of course, the Applicants, as owners of the property, can choose to retain ownership and use the property, whether for occupancy or income, for any other use permitted in the zone. The Applicants have not reconfigured the property in any way to make it unmarketable as a residence, nor have they even moved into the property. The row dwelling is vacant, and the Applicants have made no showing that it cannot be rented, used as, or sold as, a residence, therefore, the Applicants have failed to show the requisite undue hardship. *See, e.g., Bernstein v. Board of Zoning Adjustment*, 376 A.2d 816, 819 (D.C. 1977). ("It must be shown that strict application of the Zoning Regulations would preclude the use of the property for any purpose to which it may reasonably be adapted.") *See also, Salsbery v. Board of Zoning Adjustment*, 357 A.2d 402 (D.C. 1976).

Effect on Neighborhood and on Intent, Purpose and Integrity of Zone Plan

A use variance allows a use that is otherwise not permitted in a certain zone, unlike an area variance, which merely allows an already-permitted use to be built to a different size. A use variance, therefore, can change or negatively affect the character of the zone. *See, Palmer v. Board of Zoning Adjustment*, 287 A.2d 535, 541 (D.C. 1972). The subject row dwelling is in the interior of a line of row dwellings, all used as residences. Office use would alter the character of this line of dwellings merely by virtue of the fact that it is not a residential use. Neighborhood impacts unavoidably attendant to office uses, such as the comings and goings of 7 employees, deliverymen and other individuals associated with the use, would result in traffic and parking problems for the neighborhood. *See, OP Report at 4-5*. "It is well established that a variance may not be granted, even to alleviate a bona fide serious hardship to the owner, if the granting thereof would adversely affect the surrounding neighborhood." *Clerics of St. Viator, supra*, at 294-295, citing 2 *Anderson, American Law of Zoning* § 14.40. The Board concludes that the use of the subject row dwelling as office space would have a negative effect on the residential character of the neighborhood.

Lastly, the Board concludes that granting the Applicants a use variance would impair the intent and purpose of the zone plan as embodied in the zoning regulations and map. The subject property is in an R-4 zone, which does not permit matter-of-right office uses. The R-4 zone permits dwellings, particularly row dwellings, conversions of pre-1958 buildings into apartment houses, subject to certain conditions, and some institutional uses. 11 DCMR § 330. The primary purpose of the R-4 designation is "the stabilization of remaining one-family dwellings." 11 DCMR § 330.2. The granting of a use variance to allow office use right in the middle of a series of row dwellings could lead to the "destabilization" of these dwellings, in direct contradiction to the primary purpose of the R-4 zone. Further, the H Street Commercial Corridor is not far from the subject property. Permitting the Applicants an office use in the R-4 zone, so close to the Corridor, could undermine the viability of office space available therein. *See, OP Report at 5*.

"Great Weight" and the ANC's and OP's Recommendations

The Board is required to give "great weight" to issues and concerns raised by the affected ANC and to the recommendations made by the Office of Planning. D.C. Official Code §§ 1-309.10(d) and 6-623.04 (2001). Both ANC 6A and OP recommended against the granting of the use variance requested by the Applicants. The Board agrees with these recommendations.

Based on the record before the Board and for the reasons stated above, the Board concludes that the Applicants have failed to satisfy the burden of proof with respect to the application for a use variance to allow an office use within a two-story row dwelling in an R-4 zone, under § 330.5. It is therefore **ORDERED** that the application be **DENIED**.

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VOTE: **4-0-1** (Geoffrey H. Griffis, David A. Zaidain, Curtis
L. Etherly, and Carol J. Mitten, to deny. The
fifth member, not present, not voting.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each voting Board member has approved the issuance of this Order denying the application.

FINAL DATE OF ORDER: OCT 06 2003

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT. LM/rsn

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17048 of Greg Gay and Marlane Liddell, pursuant to 11 DCMR § 3104.1, for a special exception to allow a two-story rear addition to a single-family dwelling under section 223, not meeting the lot area requirements (section 401) and lot occupancy requirements (section 403) in the R-4 District at premises 1118 East Capitol Street, N.E. (Square 988, Lot 818).

HEARING DATE: September 30, 2003

DECISION DATE: September 30, 2003 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 6A and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6A, which is automatically a party to this application. ANC 6A submitted a letter in support of the application. The Office of Planning (OP) submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception under § 223. No parties appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in this proceeding. Accordingly, as set forth in the provisions and conditions below, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, that the requested relief can be granted, subject to the conditions set forth below, as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

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Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED**.

VOTE: **5-0-0** (Geoffrey H. Griffis, Peter G. May, David A. Zaidain, Curtis L. Etherly, Jr., and Ruthanne G. Miller to approve).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: OCT - 6 2003

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS,

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PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17049 of SMC-United Industrial LP, pursuant to 11 DCMR § 3104.1, for a special exception to allow the continuation of a parking lot under Section 213 (the parking lot was last approved pursuant to BZA Order No. 16164), in the R-1-B District at premises 2310 and 2320 31st Street, N.E. (Rear 3070 V Street, N.E.) (Square 4365, Lots 805 & 806).

HEARING DATE: September 23, 2003

DECISION DATE: September 23, 2003 (Bench Decision)

SUMMARY ORDER

SELF CERTIFICATION

The zoning relief requested in this case was self certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of public hearing on this application, by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 5B and to owners of property within 200 feet of the site.

The site of the application is located within the jurisdiction of ANC 5B. ANC 5B, which is automatically a party to the application, filed a written statement, dated September 10, 2003, of issues and concerns in support of the application.

As directed by 11 DCMR 3119.2, the Board has required the applicant to satisfy the burden of proving the elements which are necessary to establish the case for a special exception pursuant to 11 DCMR 213. No person or entity appeared at the public hearing in opposition to the application or otherwise requested to participate as a party to this proceeding. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

At the request of the Board, the Applicant has agreed to make improvements to the landscaping in the public space along 31st Street adjacent to the parking lot.

Based upon the record before the Board, the Board concludes that the applicant has met its burden of proof, pursuant to 11 DCMR 3104.1, and that the requested relief can be granted as in harmony with the general purpose and intent of the Zoning Regulations and Map and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map. It is therefore **ORDERED** that the application be **GRANTED SUBJECT** to the following **CONDITIONS**:

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1. Approval shall be for a period of **TEN (10)** years.
2. The layout of the site shall be in accordance with the revised site plan marked as Exhibit No. 10 of the record.
3. Use of the lot shall be restricted as follows:
 - a. All tractor trailers, contractor office trailers and other large commercial vehicles shall be restricted to the southern portion of the lot. No more than 10 tractor trailer vehicles shall be parked on the site at any given time.
 - b. Service vehicles for the tenant of the adjacent building shall be restricted to the northern portion of the facility.
 - c. Employee passenger vehicles for the tenant of the adjacent building shall be restricted to the central portion of the facility.
 - d. No commuter, fringe or public parking use, except by employees of neighboring properties, shall be permitted at this facility at any time.
 - e. No vehicle maintenance, storage of equipment or dumping of trash or other refuse and debris shall be permitted on site.
 - f. Twenty-four hour controlled parking by chain and padlock or attendant access shall be provided.
 - g. The lots shall be periodically monitored or patrolled when unattended.
 - h. Any lots not used for parking shall be chained and locked.
4. Lighting shall not be required at the site in accordance with the agreement between the applicant and the community.
5. If Lots 28 and 29, located to the north of the facility and currently owned by the Applicant, are developed in the future, the Applicant shall notify the Board, and a further proceeding will be initiated in order to consider whether and to what extent an additional landscaped buffering between the residential and commercial land use is necessary.

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6. The applicant shall maintain signage on the lot directing all vehicles exiting the lot to turn right on 31st Street, heading south toward V Street.
7. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weathered impervious surface.
8. No vehicle or any part thereof shall be permitted to project over any lot or building line, or on or over the public space.
9. All parts of the lot shall be kept free of refuse or debris and shall be paved and landscaped. Landscaping and lawn areas shall be maintained in a healthy growing condition and in a neat and orderly appearance.
10. No other use shall be conducted from or upon the premises and no structure other than an attendant's shelter shall be erected or used upon the premises unless such use or structure is otherwise permitted in the zoning district in which the parking lot is located.

Pursuant to 11 DCMR 3101.6, the Board has determined to waive the requirement of 11 DCMR 3125.3 that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is not prohibited by law.

VOTE: **5-0-0** (Geoffrey H. Griffis, David A. Zaidain, Curtis L. Etherly, Jr.,
Ruthanne G. Miller and Peter G. May to approve).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member has approved the issuance of this Order.

FINAL DATE OF ORDER: **OCT - 7 2003**

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE

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PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

PURSUANT TO 11 DCMR § 3205, FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART, SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

Application No. 17056 of Richard A. Miller, pursuant to 11 DCMR § 3104.1, for a special exception to allow a second story addition to a single family dwelling under section 223, in the R-1-B District at premises 2503 Tracy Place, N.W. (Square 2502, Lot 31).

HEARING DATE: September 30, 2003

DECISION DATE: September 30, 2003 (Bench Decision)

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 2D and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2D, which is automatically a party to this application. ANC 2D submitted a letter in support of the application. The Office of Planning (OP) submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case pursuant to § 3104.1, for special exception under § 223. No parties appeared at the public hearing in opposition to this application or otherwise requested to participate as a party in this proceeding. Accordingly, as set forth in the provisions and conditions below, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP the Board concludes that the Applicant has met the burden of proof, pursuant to 11 DCMR §§ 3104.1 and 223, that the requested relief can be granted, subject to the conditions set forth below, as being in harmony with the general purpose and intent of the Zoning Regulations and Map. The Board further concludes that granting the requested relief will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3101.6, the Board has determined to waive the

BZA APPLICATION NO. 17056
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requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application be **GRANTED**.

VOTE: **5-0-0** (Geoffrey H. Griffis, David A. Zaidain, Curtis L. Etherly, Jr., Ruthanne G. Miller, and John G. Parsons to approve).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

Each concurring member approved the issuance of this order.

FINAL DATE OF ORDER: **OCT - 6 2003**

UNDER 11 DCMR 3125.9, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE FOR THE BOARD OF ZONING ADJUSTMENT."

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

THE APPLICANT IS REQUIRED TO COMPLY FULLY WITH THE PROVISIONS OF THE HUMAN RIGHTS ACT OF 1977, D.C. LAW 2-38, AS AMENDED, AND THIS ORDER IS CONDITIONED UPON FULL COMPLIANCE WITH THOSE PROVISIONS. IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ., (ACT) THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, FAMILIAL STATUS,

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FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS ALSO PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS ALSO PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION. THE FAILURE OR REFUSAL OF THE APPLICANT TO COMPLY SHALL FURNISH GROUNDS FOR THE DENIAL OR, IF ISSUED, REVOCATION OF ANY BUILDING PERMITS OR CERTIFICATES OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER. RSN

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
and
ORDER NO. 959-A
Z.C. CASE NO. 00-04TA
(Text Amendment – 11 DCMR)
(Miscellaneous Technical Corrections)**

The full text of this Zoning Commission order is published in the “Final Rulemaking” section of this edition of the *D.C. Register*.

OCT 17 2003

DISTRICT OF COLUMBIA REGISTER

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
and
Z.C. ORDER NO. 02-33
Z.C. Case No. 02-33
(Map Amendment – Square 4327)
(Fort Lincoln Urban Renewal Area)**

The full text of this Zoning Commission order is published in the “Final Rulemaking” section of this edition of the *D.C. Register*.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING**

and

Z.C. ORDER NO. 02-34

Z.C. Case No. 02-34TA

(Text Amendment – 11 DCMR)

(Optical Transmission Nodes)

The full text of this Zoning Commission order is published in the “Final Rulemaking” section of this edition of the *D.C. Register*.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
and
Z.C. ORDER NO. 03-01
Z.C. Case No. 03-01
(Map Amendment – Square 3187, Lots 50, 823, 826, and 834)
(Chestnut Street, N.W. to Spring Place, N.W., on the east side of Blair Road, N.W.,
including the north side of Spring Place, N.W.)**

The full text of this Zoning Commission order is published in the “Final Rulemaking” section of this edition of the *D.C. Register*.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING**

and

ORDER NO. 03-14

Z.C. Case No. 03-14

(Text Amendment – 11 DCMR § 3202.5(a))

July 31, 2003

The full text of this Zoning Commission Order is published in the “Final Rulemaking” section of this edition of the *D.C. Register*.

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